



APPENDIX

Section 145 of the Judicial Code (28 U. S. C. §250):

The Court of Claims shall have jurisdiction to hear and determine the following matters:

(1) *Claims against United States.* First. All claims (except for pensions) founded upon the Constitution of the United States or any law of Congress, upon any regulation of an executive department, upon any contract, express or implied, with the Government of the United States, or for damages, liquidated or unliquidated, in cases not sounding in tort, in respect of which claims the party would be entitled to redress against the United States either in a court of law, equity, or admiralty if the United States were suable: * * *

Second Deficiency Appropriation Act, 1938, c. 681, 52 Stat. 1114, 1150-1151:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1938, and for prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1938, and June 30, 1939, and for other purposes namely:

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For the refunding, which is hereby authorized, in accordance with rules and regula-

tions to be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, of all amounts collected by any collector of internal revenue as tax (including penalties and interest) under the Bankhead Cotton Act of 1934 (48 Stat. 598), as amended, the Kerr Tobacco Act (48 Stat. 1275), as amended, and the Potato Act of 1935 (49 Stat. 750), fiscal year 1939, so much of the appropriation in the immediately preceding paragraph as may be requisite is hereby made available for the purposes of and in accordance with the provisions of this paragraph: *Provided*, That no refund shall be made or allowed of any amount paid by or collected from any person as tax under such Acts, unless, after the date of the enactment of this Act, and prior to July 1, 1939, a claim for refund has been filed by such person: *Provided further*, That no refund shall be denied upon the ground that a proceeding to recover had become barred by the limitation provisions of such Acts, or by the provisions of section 3226, as amended, of the Revised Statutes, or by the provisions of section 608 of the Revenue Act of 1928: *Provided further*, That in the absence of fraud all findings of fact and conclusions of law of the Commissioner of Internal Revenue upon the merits of any such claim for refund, and the mathematical calculations made in connection therewith, shall not be subject to review by any court or by any other officer, employee, or agent of the United States: *Provided further*, That no refund of any tax shall be made under this paragraph unless liability for the payment of such tax was satisfied by the payment of money: * * *

Bankhead Cotton Act of 1934, c. 157, 48 Stat. 598-607:

SEC. 3.

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(c) For the crop year 1934-1935 ten million bales is hereby fixed as the maximum amount of cotton of the crop harvested in the crop year 1934-1935, that may be marketed exempt from payment of the tax herein levied. Except as provided in section 2, the allotment plan and the tax is hereby declared to be in effect for the crop year 1934-1935.

TAX AND EXEMPTIONS

SEC. 4. (a) There is hereby levied and assessed on the ginning of cotton hereafter harvested during a crop year with respect to which this Act is in effect, a tax at the rate per pound of the lint cotton produced from ginning, of 50 per centum of the average central market price per pound of lint cotton, but in no event less than 5 cents per pound. If the cotton was harvested during a crop year with respect to which the tax is in effect, the tax shall apply even if the ginning occurs after the expiration of such crop year.

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(e) No tax shall be imposed under this Act with respect to—

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(2) An amount of cotton harvested in any crop year from each farm equal to its allotment.

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(f) The tax shall not be collected upon the ginning of cotton which is to be stored by

the producer thereof either on the farm or at such other place as may be permitted by regulations prescribed by the Secretary of Agriculture and the Secretary of the Treasury. In such cases, the payment of the tax shall be postponed, but shall be paid at the time when bale tags are secured for such cotton. Bale tags may be secured for any of such cotton at any time after ginning (1) upon the payment to such person as the Commissioner may direct, of the amount of tax which would have been payable at the time of ginning, or (2) upon the surrender of certificates of exemption covering an amount of cotton not less than the amount of such cotton. Until bale tags are secured for such cotton, such cotton shall be subject to a lien in favor of the United States for the amount of the tax payable with respect to the ginning of such cotton. * * *

(g) The right to exemption under paragraph (2) of subsection (e) shall be evidenced by a certificate of exemption issued as herein provided, which certificate of exemption shall be conclusive proof of the right to such exemption.

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EXEMPTION CERTIFICATES

SEC. 9. (a) Exemption certificates shall be issued by the Secretary of Agriculture, upon application therefor, but only upon proof satisfactory to the Secretary that the producer is entitled thereto pursuant to this Act and the regulations thereunder. Any certificate erroneously issued shall be void upon a demand in writing for its re-

turn made by the Secretary of Agriculture to the person to whom such certificate was issued.

(b) The right to a certificate of exemption shall be evidenced in such manner as the Secretary of Agriculture may by regulations prescribe.

(c) The certificate of exemption shall specify the amount of cotton exempt from the tax under section 4 (e) (2).

(d) Any and all certificates of exemption may be transferred or assigned in whole or in part in such manner as the Secretary of Agriculture may prescribe and shall be issued with detachable coupons or in such other form or forms to be prescribed by the Secretary of Agriculture as will facilitate such transfer or assignment. Any person who, in violation of the regulations made by the Secretary of Agriculture, (1) secures certificates of exemption or bale tags from another by sharp practices, or (2) speculates in certificates of exemption or bale tags, and any person securing certificates of exemption or bale tags from another person by fraud or coercion shall, upon conviction thereof, be fined not more than \$1,000 or sentenced to not more than one year's imprisonment, or both.

IDENTIFICATION OF TAX-PAID OR EXEMPT COTTON

SEC. 10. (a) Upon the payment of the tax on any cotton, or the surrender of exemption certificates covering cotton, the collector receiving such payment or certificates shall deliver to the person so paying or surren-

dering an appropriate number of bale tags which shall be affixed to such cotton.

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GENERAL AND PENAL PROVISIONS

SEC. 14. * * * (b) Except as may be permitted by regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury, with due regard for the protection of the revenue, no person shall: (1) Transport, except for storing or warehousing, under the provisions of section 4 (f) beyond the boundaries of the county where produced any lint cotton to which a bale tag issued under this Act is not attached; or (2) sell, purchase, or open any bale of lint cotton to which a bale tag issued under this Act is not attached.

(c) No seed cotton harvested during a crop year with respect to which the tax is in effect shall be exported from the United States or any possession thereof to which this Act applies to any possession of the United States to which this Act does not apply or to any foreign country.

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REGULATIONS BY THE SECRETARY OF AGRICULTURE

SEC. 15. (a) The Secretary of Agriculture is authorized to make such regulations as may be necessary to carry out the powers vested in him by the provisions of this Act.

(b) The Secretary of Agriculture may make regulations protecting the interests of share-croppers and tenants in the making of allotments and the issuance of tax-exemption certificates under this Act.

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COLLECTION OF TAXES

SEC. 19. The taxes provided for by this Act shall be collected by the Commissioner of Internal Revenue under the direction of the Secretary of the Treasury. Taxes collected shall be paid into the Treasury of the United States.

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Regulations B. A. 19C prescribed by the Secretary of Agriculture under the Bankhead Cotton Act:⁵

ARTICLE X. TRANSFER OF CERTIFICATES

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SEC. 102. *Surplus certificates.*—Certificate(s) not needed by a producer for securing bale tags may be sold, assigned, or transferred but only under the following conditions:

If the producer possesses an amount of certificate(s) in excess of the amount needed by him to procure bale tags for his cotton, he may execute and file with the Assistant in Cotton Adjustment (in and for the county in which the certificate(s) were distributed) a statement (upon a prescribed form) showing that he desires to offer such amount for local sale or for surrender into the national Surplus Cotton Tax-Exemption Certificate Pool and— * * *

SEC. 103. *Local sales and procedure.*—(a) Any producer holding such surplus certificate(s) may sell, barter, exchange, or assign to any other cotton producer situated within the county where originally issued (or re-issued) the remaining unused portion(s) of

⁵ Article X was prescribed September 5, 1934.

his certificate(s) at the price fixed under section 104 of these regulations. * * *

SEC. 104. *National Surplus Cotton Tax-Exemption Certificate Pool and participation therein.*—In order to provide facilities for a general transfer of surplus certificates and thereby increase the benefits which may accrue to cotton producers holding surplus certificate(s) and at the same time provide reasonable means whereby producers whose exemption exceeds their allotments may share to a certain extent in the advantage of such a transfer, there is hereby created a National Surplus Cotton Tax-Exemption Certificate Pool (hereinafter referred to as the pool). The pool shall be opened, maintained, operated, and closed as prescribed below:

(a) The pool shall be operated under the general supervision of the Cotton Production Section of the Agricultural Adjustment Administration, subject to the approval of the Administrator. A Certificate Pool Manager (hereinafter referred to as the manager) will be designated by the Chief, Cotton Production Section of the Agricultural Adjustment Administration, with the approval of the Administrator of the Agricultural Adjustment Administration, Department of Agriculture. Such manager shall receive and manage and sell or dispose of surplus certificate(s) under trust agreements executed (on a prescribed form) by the several producers participating in the pool.

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(c) Any Assistant in Cotton Adjustment is authorized to accept from any producer

(operating a producer unit respecting which application for certificate(s) was made in his county) a portion or all of such producer's surplus certificate(s) if accompanied by a trust agreement executed in accordance with these regulations and shall give such producer a receipt therefor endorsed on the producer's copy of his trust agreement. Such certificate(s), so surrendered, shall be promptly placed in the pool. Each producer so surrendering surplus certificate(s) shall in such trust agreement appoint the manager as his trustee and authorize the manager to receive such certificate(s) and handle them as prescribed in these regulations and sell such certificate(s) or any portion thereof to other producers who may desire to purchase the same in accordance with these regulations. Every certificate received in the pool shall be accurately recorded as to all particulars and shall then be cancelled and destroyed.

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(e) The manager will receive from the Secretary, as required, blank certificates which shall be used for the purpose of sale to producers to the extent of and in the place of the certificates so surrendered by producers to the pool. In order to expedite the service, a supply of such blank certificates (properly endorsed to indicate their character) shall be consigned to each Assistant in Cotton Adjustment to the extent of his reasonable request in order to be able to supply the market therefor in his county. Any such Assistant may sell such certificates under the following conditions:

(1) All sales shall be made at a rate per pound (of tax-exempt cotton expressed in

the certificate) fixed by the Secretary, who may if he sees fit change the price from time to time, and the same price shall prevail throughout all cotton-producing counties for the time such price is in effect. Such price is hereby fixed at four cents per pound, which price shall remain in effect unless and until another price is fixed by the Secretary.

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(3) Payment for such certificate(s) so purchased shall be made only by certified check, bank draft, or postal money order, made payable to the order of "Certificate Pool Manager."

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(g) All funds in the form of checks, drafts, or money orders received in payment for certificates sold from the pool shall be deposited with the Treasurer of the United States through the Comptroller of the Agricultural Adjustment Administration, Department of Agriculture, under a special symbol number. All disbursements from such funds (whether on account of expenses or dividends to producers) shall be made by said Comptroller but only upon a voucher, warrant, or other written authorization drawn by the manager (or such other person or persons as may from time to time be designated by the Secretary) and approved by said Comptroller. * * * All expenses incident to the operation of the pool (but not including salaries of the manager or the Assistants in Cotton Adjustment) shall be deducted from the gross receipts.

(h) The funds remaining in the pool, after deduction of all such expenses as provided above, shall be distributed pro rata to

producers in the proportion which the number of pounds represented by the certificate(s) surrendered into the pool by each producer bears to the total number of pounds represented by all certificates surrendered into the pool.

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